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PUBLIC HEARING MEMORANDUM

DATE: May 31, 2019

TO: Councilor Albright, Chair, Zoning & Planning Committee
Councilor Schwartz, Chair, Land Use Committee
Members of the Zoning and Planning Committee
Members of the Land Use Committee

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Rachel B. Nadkarni, Long-Range Planner

RE: **#140-19(3) & 187-19 – Proposed Amendments to the Mixed-Use 3/Transit-Oriented Development District**

MEETING DATE: June 4, 2019

CC: Honorable Newton City Councilors
Planning and Development Board
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Development of the Riverside Station site remains one of the most significant opportunities in the City of Newton. A previous development proposal for this site led to the creation of the MU3/Transit-Oriented Development District. With a new development project having been filed, there are now two proposed amendments to this zoning district; one from the developer and one from a local community group. Over the last several months, the Planning Department led a visioning process to help the City articulate a new vision for this site in order to assist in the review of the new development proposal and in decisions about changes to the zoning. This memo reviews the existing zoning and the two proposed zoning amendments, concluding with the Planning Department's recommendations for amendments to the MU3 District.

The MU3/Transit-Oriented Development District

What would eventually become the MU3 zoning district was initially docketed by the Ward 4 Councilors of the time in 2011. From the docket language and subsequent discussion at the Zoning and Planning Committee early in 2012, the parameters of the proposed district were based in a conceptual development plan that had been the subject of

discussions with a developer. From the initially docketed proposal, height and density of the project had already been established. Over the next several months the zoning district was finalized, reflecting this initial conceptual development plan and the special permit granted for that plan, so that, by the end of 2012, the Riverside developer of that time was able to proceed with a zoning district that specifically matched their approved project. Over the following years it became apparent that the approved project was not financially feasible and now, in 2019, there is a new development proposal for the Riverside site.

The MU3 District today reflects the conceptual plan that was the basis for the 2011 project. Effectively, the zoning allows for three more-or-less stand-alone developments on the 9-acre Riverside Station site totaling 580,000 square feet of development; a 225,000 square foot office building, a 20,000 square foot retail development, and a 335,000 square foot, max 290-unit, residential development. Height, FAR, and lot area per unit requirements reinforce these restrictions, in particular, the maximum height of 4 stories. The District zoning text is rounded out with some allowances for shared parking and a range of criteria relating to open space, transportation impacts, fiscal impacts, and sustainable design.

A copy of the MU3 District is provided as Appendix A.

Riverside Developer Proposed Amendments

Much as the existing MU3 District is based on a previous development proposal, the current developer proposing a project for the Riverside site has submitted amendments to the MU3 District tailored to allowing their project. These amendments significantly expand the allowable area of development, allowing up to 1,520,000 square feet of development with 650,000 square feet in office, 200,000 square feet in retail, and 750,000 square feet, with 675 units, in residential. The corresponding FAR and lot area per unit are increased and overall, the allowed height is increased to 18 stories. Other proposed amendments include adding 'animal services' as an allowed use, a clear 15-foot setback along Grove Street, and the exclusion of enclosed parking areas or structured parking from the calculation of FAR. The majority of the existing MU3 District text remains and, as currently, any realistic development of the parcel will require a special permit.

Appendix B is a redline version of the MU3 District language including the developer's proposed zoning amendments.

Local Community Group Proposed Amendments

The amendments proposed by the local community group take a different approach to setting the parameters of development for the Riverside Site. While the existing zoning attempts to ensure development of the site is complementary to the surrounding neighborhoods and balances this objective with a range of other objectives, the community group's proposed amendments make effects on the local neighborhood the over-riding and essentially only consideration. The proposal includes an extensive array of amendments that serve to limit and restrict what can be built with the stated goal of not allowing anything inconsistent with the existing characteristics or look and feel of Lower Falls, Auburndale, or Grove Street.

Many of the proposed requirements are more prescriptive than customarily written into zoning and some of the proposed requirements raise legal questions. While the development parameters increase the allowable amount of development beyond what is allowed in the existing MU3, these limits are still below what the Vision Plan's financial feasibility analysis identifies to be the minimum necessary for financial feasibility given the requirements to build an

MBTA parking garage, provide transportation system improvements, e.g. a new highway interchange, and the land lease payment expectations of the MBTA. Further, with the range of additional requirements proposed in this amendment, it is unclear whether any development could achieve the proposed allowable square feet of development.

Appendix C is a redline version of the MU3 District language including the community group's proposed zoning amendments

Comparison Table

	Existing MU3 District Standards	Developer Proposal: Amended Standards	Community Group Proposal: Amended Standards
Stories / Height	4 stories* / 36', 135' by SP	18 stories / 230'	4 stories* / 36', 135' by SP
FAR	1.0 / 2.4 by SP	1.0 / 2.7 by SP	1.0 / 2.4 by SP
Lot Area per Unit	1200 sf	850 sf	1200 sf
Open Space	15%	15%	30%
Allowed Development Total	580,000 sf	1,520,000 sf	650,000 sf**
Office	225,000 sf	650,000 sf	120,000 sf
Retail	20,000 sf	200,000 sf	40,000 sf +
Residential	335,000 sf / 290 units	750,000 sf / 675 units	480,000 sf / 415 units

* Story height limit may be exceeded by special permit.

** Proposal allows an additional 100,000 sf distributed proportionally amongst categories if a specific highway interchange approach is included.

+ Hotel is excluded from this category and made its own category with 176,000 sf contingent on inclusion of the Indigo Hotel parcel.

Planning Department Recommendations

The following recommendations for amendments to the MU3 district are based in the work of the Riverside Vision Plan (May 2019) and the expertise of Planning staff. Overall, these recommendations rely heavily on the City's broad public policy objectives in Housing, Environment, Transportation, Economic Development, and Excellence in Placemaking. These objectives, along with the objective to create Community Connections, are well addressed in the Riverside Vision document and also described in the recent Washington Street Vision memo to the Zoning and Planning Committee, dated May 24, 2019. These documents are worthy of review in considering the zoning changes for the Riverside site.

As described in the Riverside Vision and the Comprehensive Plan, Newton is a city of villages. Nearly every major node in the transportation infrastructure that serves Newton, from highway interchanges to commuter or light rail

stations, have a village center that surrounds them. These nodes effectively are breaks in the otherwise prevalent patterns of surrounding residential neighborhoods. They are places where the high land values created by transportation investments result in concentrations of higher density development. The Riverside site is an anomaly – a place where considerable transportation investment, a highway interchange and a green line station, have resulted in nothing more than a parking lot. The City of Newton Comprehensive Plan (2007), in identifying the opportunity available at the Riverside site, offered the following policy guidance:

“It is clear that Riverside represents a significant development opportunity which the city can ill afford to ignore. Riverside has the capacity, access to highways, public transportation, and location to attract several million square feet of high quality, mixed-use development. In fact, it is important to develop a dense enough project on this site to help pay to solve the access issues. The notion that a major parcel of land at the intersection of the Massachusetts Turnpike and Route 95 should remain undeveloped (and untaxed) is fiscally irresponsible and physically illogical.” (p. 59)

Newton’s policy objective that centers on the idea of ‘Excellence in Placemaking’ reminds us that the unique opportunity presented by the Riverside site is not to be construed as a license for just anything to be built there. What is built must always reflect Newton’s approach and Newton’s ideals.

The Riverside Vision plan outlines site planning principles to accomplish Newton’s policy objectives for this site, to ensure that the design will reflect the best of Newton, and to simultaneously be grounded in reality so that the community can see the proactive visioning come to fruition. A no build scenario ultimately does not meet the overall goals of the City. Significantly for this site, an independent analysis of development financial feasibility, described in Appendix A of the Riverside Vision document, revealed a need for substantial density at the site in order to accommodate all of the associated development costs. This conclusion was anticipated by the Comprehensive Plan back in 2007.

Best practices in zoning consistently point out that good zoning sets clear expectations but also offers sufficient flexibility to allow the design of a development project to respond to its many competing constraints from site conditions, to financing, to different, and often competing, public policy objectives. The existing MU3 District and both of the proposed amendments all lock in a very strict development program, contrary to zoning best practices. The following Planning Department recommendations relative to the two amendment proposals to the MU3 District are grounded in the above issues and zoning best practices.

Appendix D is a redline version of the MU3 District language including the Planning Department’s proposed zoning amendments.

- 1 The Planning Department recommends no changes to the intent section – the existing language sufficiently identifies the priorities of the City as they relate to the MU3 district.
- 2 The Planning Department supports the developer requested change to the Lot Area Per Unit standard – As has been noted, the Riverside site has the transportation infrastructure to support greater density, the City’s policy objectives will be supported with greater density, and financial feasibility to develop the site requires greater density. This standard represents a maximum and the special permit process will include a fine-grained review that could result in an actual density lower than that allowed.

- 3 The Planning Department supports the developer requested changes to the height and FAR standards – see note above. The Zoning and Planning Committee should consider increasing the allowed height to 20 stories and 260 feet in order to increase site planning flexibility and to accommodate the high costs associated with developing this site. This standard represents a maximum and the special permit process will involve detailed project review, including consideration of the Riverside Vision and community group’s recommendation of a 4-story limit along Grove Street.
- 4 The Planning Department supports the developer requested reduction in the beneficial open space requirement – The Riverside site is adjacent to one of the larger public open spaces in the City and a reduction in this standard seems appropriate. The beneficial open space standard is a minimum requirement, the design and scale of which can be further discussed in the special permit process.
- 5 The Planning Department recommends not adding an additional Civic Open Space requirement – The existing open space requirement represent a minimum requirement and further design specifications for open space can be addressed through the special permit process. The proposed Civic Open Space requirement overlaps with the existing Beneficial Open Space requirement and results in a total requirement of 30%, which is a far higher requirement than necessary for this site. Creating comfortable and well utilized civic spaces is a priority listed in the Riverside Vision. Design and programming are as important as size.
- 6 The Planning Department agrees with both proposals that changes to Sec 4.2.4.A addressing height and setbacks are warranted – The existing language is complicated and does not necessarily support good urban design or compatibility with the existing context. However, the community group amendments overall go too far to restrict the project design in ways that increase costs and lower potential energy efficiency without necessarily addressing design goals. Staff would recommend adopting the proposed 15-foot setback from the developer’s proposal. Staff would not recommend adding the proposed four story / 44-foot height cap to the zoning. The height and overall building design features should be handled in the special permit process, with reference to the recommendations of the Riverside vision.
- 7 The Planning Department recommends modifying the proposed amendments to the Intensity of Development Section – Both sets of proposed amendments include modifications to the Intensity of Development Section that result in a greater amount of allowed development. The Community Group proposal appears to make the allowed square footage both a minimum and a maximum (unclear intent) and adds categories. In short, the list should remain clearly identified as maximums and the categories should remain broad with the three in the current zoning. The added categories raise a number of problematic issues that, in short, are better addressed through the special permit process.

Planning staff recommend that, with the exception of adding the requested use into Category B, the categories remain the same and the maximum square footage for each category be those requested by the developer. Again, as these numbers represent maximums, the eventual special permit granted could be for lower square footages in each category.

- 8 The Planning Department recommends clarifying that parking structures are excluded from FAR – The existing MU3 District excluded the MBTA parking garage from the FAR, but the current proposal, consistent with parking best practices, seeks to intermingle public and private parking facilities through shared parking and therefore it is appropriate to extend the FAR exclusion to all parking structures. The interplay of the Intensity of Development Section, the height section, and the FAR section will guide the shaping of buildings

on the site. A detailed site planning discussion in the special permit process will shape the placement of parking toward city goals for excellence in placemaking.

- 9 The Planning Department does not recommend including highway access in the zoning amendment – The question of highway access and allowing density based on whether that goal is achieved is properly addressed through the special permit process.
- 10 The Planning Department supports addition of Animal Services use and the Parking uses – The addition of these uses raise no concern at this time.
- 11 The Planning Department recommends no changes to Section 7.3.5 – The special permit filing requirements and criteria for the current MU3 District are the most extensive and detailed of any district in the City. Additional requirements and criteria are unnecessary. The issues and concerns raised by the community group’s proposed amendments in this section can already be properly addressed in the special permit review process in which additional studies and specific information pertinent to the review of the development proposal may be requested by the City Council. The amendments to this section proposed by the community group would serve to remove authority from the City Council to determine what information is necessary to make a decision and would effectively remove the Council’s discretion with regards to development of the Riverside site.

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

- A. **Mixed Use 1 and 2 District.** [Reserved]
- B. **Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. **Mixed Use 4 District.** The purposes of the Mixed Use 4 district are to:
 1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
 2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
 3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
 4. Expand the diversity of housing options available in the City.
 5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-6, 10/01/12)

4.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3 apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/TOD	MU4
Lot Area Per Unit (min)	10,000 sf	10,000 sf	1,200 sf	1,000 sf

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.
3. **Stories.** A special permit is required based on stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	NA	P
3 stories	P	SP	NA	--
3 stories, mixed use residential	NA	NA	NA	P
4 stories	SP	SP	NA	SP
5 stories, mixed use residential	NA	NA	NA	SP

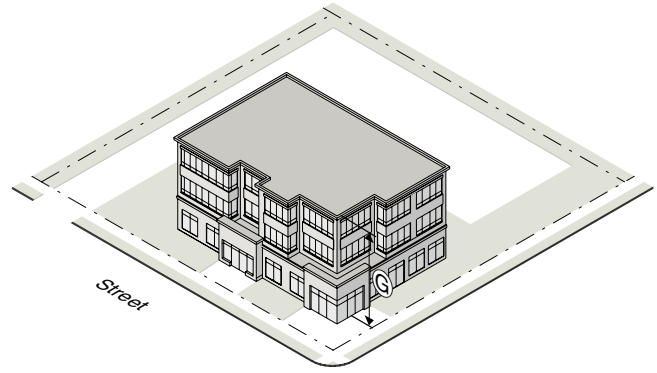
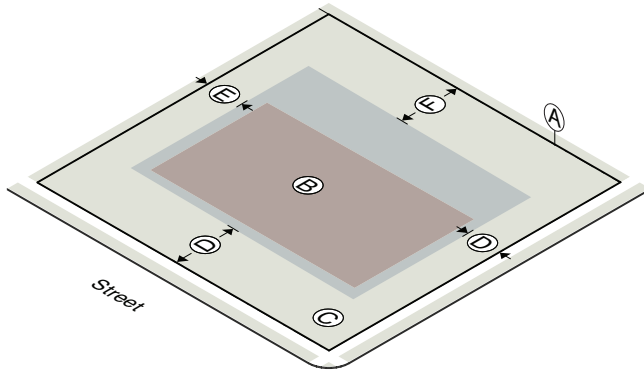
P = Allowed by Right

SP = Special Permit by City Council Required

NA=Not Applicable, -- Not Allowed

(Ord. No S-260, 08/03/87; Ord. No. A-73, 04/04/16; Ord. No. A-99, 01/17/17)

4.2.3. All Building Types in Mixed Use



Districts

Mixed Use Districts	MU1	MU2	MU3	MU4
Lot Dimensions				
Ⓐ Lot Area (min)				
2 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
3 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
4 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
5 stories	--	--	9 ac	10,000 sf
Ⓑ Lot Coverage (max)	--	--	--	--
Ⓒ Beneficial Open Space	--	--	n/a by right; 15% by special permit	See Sec. 4.2.5
Building Setbacks				
Ⓓ Front (min)				
1 story	15'	15'	See Sec. 4.2.4	See Sec. 4.2.5
2 or more stories	total ht of bldg	total ht of bldg		
Parking Setback	20'	15'		
Ⓔ Side (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	7.5'		
Parking setback	5'	5'		
Ⓕ Rear (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	0'		
Parking setback	5'	5'		
Building and Structure Height				
Ⓖ Height (max)				
2 stories	36'	24'	36' by right;	24'
3 stories	36'	36'	135' by	36'
4 stories	48'	48'	special permit	48'
5 stories	--	--		60'
Ⓖ Stories (max) see also Sec. 4.2.2	3	4	4	8
Floor Area Ratio				
Floor Area Ratio (max)				
2 stories	1.50	1.00	up to 36' = 1.0	1.00
3 stories	1.50	1.50	up to 135' =	1.50
4 stories	2.00	2.00	2.4	2.00
5 stories	--	--		2.50

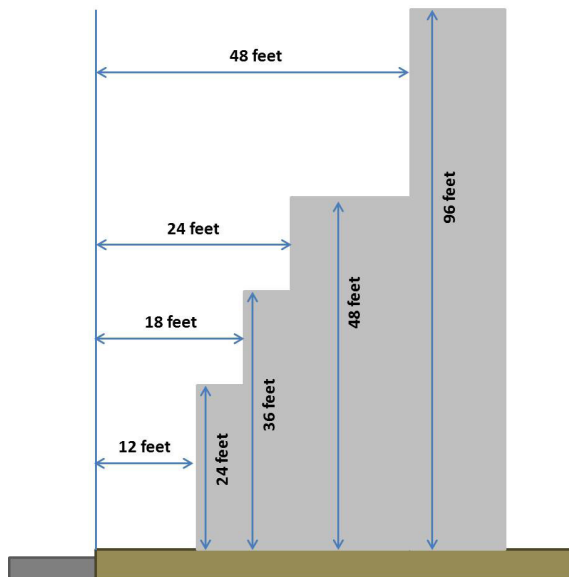
* Average setback is described in [Sec. 1.5.3](#)

-- Not Allowed

4.2.4. Additional Standards in MU 3/TOD

Any development permitted by special permit must meet the following requirements and the requirements of [Sec. 4.2.3](#). The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/TOD, provided that the requirements of this [Sec. 4.2.4](#). are met and no dimension exceeds those allowed in [Sec. 4.2.3](#) for the mixed-use development special permit.

A. Setbacks. Any structure or building must be set back a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in [Sec. 7.3](#), the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.



B. Beneficial Open Space. At least 50 percent of the beneficial open space required by [Sec. 4.2.3](#) for a

mixed-use development must be freely open to the public.

C. Exclusion of Public Structures from Zoning Requirements. Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:

1. The quantity of beneficial open space required;
2. Minimum lot area; or
3. Floor area ratio.

D. Impacts of Takings by or Conveyances to a Public Entity. The provisions of [Sec. 7.8.4](#) shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. Establishment of a Development Parcel. The area developed under a special permit must be organized into a development parcel as defined in [Article 8](#). The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 acres in size and does not create or expand any nonconformities.

F. Intensity of development.

1. The development must have at least one use from each of the three categories (A, B, and C) plus a community use space.

- a. Category A: Office (including research and development, business incubator, medical office, and other similar uses);
 - b. Category B: Retail sales, personal services, restaurants, banking, health club, place of entertainment and assembly, theater, lodging, hotel, motel; and
 - c. Category C: Multi-family, live/work space, single room occupancy, single person occupancy, assisted living nursing home.
2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit for a mixed-use development.

G. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in each category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed 580,000 square feet:

- 1. Category A shall not exceed 225,000 square feet (excluding offices incidental to residential, retail or community uses), the majority of which must be contained within one structure;
- 2. Category B shall not exceed 20,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
- 3. Category C shall not exceed 335,000 square feet not to exceed 290 dwelling units.

H. Organization of Owners. Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal

responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

(Ord. No. Z-108, 04/17/12)

4.2.5. Additional Standards in MU4

A. Design Standards for the Mixed Use 4 District.

Notwithstanding any provisions of this Article to the contrary, buildings and structures in the Mixed Use 4 district shall conform to the following standards:

- 1. **Height.** Buildings in the Mixed Use 4 district shall be a minimum of 2 stories and shall conform to the limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 4 stories and 48 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
- 2. **Mixed-Use Residential Incentive.** Buildings that meet the definition of mixed-use residential buildings shall conform to the specific limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 5 stories and 60 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
- 3. **Residential Density.** The City Council may grant a special permit to waive the lot area per dwelling unit requirement of Sec. 4.2.3 by finding that the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Residential Uses												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.1
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.2
Residential use, above ground floor	L/SP	L/SP	L/SP	L/SP	--	SP	L/SP	P	P	--	--	Sec. 6.2.4
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	Sec. 6.2.4
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	Sec. 6.2.10
Live/work space	P	P	P	P	P	P	P	P	P	--	--	Sec. 6.2.11
Lodging House, above ground floor	SP	SP	SP	SP	--	SP	SP	SP	SP	--	--	Sec. 7
Civic/Institutional Uses												
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	Sec. 6.3.2
Community use space	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.4
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	Sec. 6.3.5
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	Sec. 6.3.6
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	Sec. 6.3.7
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	Sec. 6.3.8
Public use	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.10
Rail/bus station	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.11
Religious institution	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.12
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	--	SP	--	--	--	--	Sec. 6.3.13
School or other educational purposes, non-profit	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.14
Theatre, hall	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.3.15
Commercial Uses												
Animal service, excluding overnight boarding	--	--	--	--	--	SP	SP	--	SP	--	--	Sec. 6.4.1
ATM, standalone	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	Sec. 6.4.2

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

(Ord. No. B-1, 02/20/18; Ord. No. B-27, 04/01/19)

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank, up to 5,000 square feet	P	P	P	P	--	SP	P	SP	P	--	P	Sec. 6.4.4
Bank, over 5,000 square feet	P	P	P	P	--	SP	SP	SP	P	--	P	Sec. 6.4.4
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	Sec. 6.4.5
Business incubator	P	P	P	P	--	P	P	P	--	P	p	Sec. 6.4.6
Business services	--	--	--	--	--	SP	P	--	--	--	--	Sec. 6.4.7
Car-sharing service, car rental, bike rental, electric car-charging station	P	P	P	P	P	P	P	P	P	--	P	Sec. 6.4.8
Car wash	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.4.9
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	Sec. 6.4.11
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	Sec. 6.4.12
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	Sec. 6.4.13
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.14
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	Sec. 6.4.15
Health club, above or below ground floor	P	P	--	P	--	P	P	P	SP	P	P	Sec. 6.4.16
Health club, ground floor	P	P	--	P	--	SP	SP	SP	SP	P	P	Sec. 6.4.16
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	Sec. 6.4.17
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	Sec. 6.4.18
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	Sec. 6.4.18
Kennel	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.4.19
Office	P	P	P	P	P	P	P	L	L/SP	P	P	Sec. 6.4.20
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	Sec. 6.4.21
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	Sec. 6.4.22
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	Sec. 6.4.23
Parking facility, accessory, single level	P	P	P	P	--	P	P	--	P	P	P/SP	Sec. 6.4.24
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	SP	SP	--	SP	SP	SP	Sec. 6.4.24
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	SP	--	--	P	SP	SP	Sec. 6.4.24
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	SP	--	--	SP	SP	SP	Sec. 6.4.24
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.25
Personal service, over 5,000 square feet	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.4.25
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	Sec. 6.4.26

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Radio or television broadcasting studio	SP	SP	SP	SP	SP	--	SP	--	--	L	--	Sec. 6.4.27
Radio, or television transmission station	--	--	--	--	SP	SP	--	--	--	SP	--	Sec. 6.4.27
Research and development	--	--	--	--	--	--	--	P	--	--	--	Sec. 6.4.28
Restaurant	L/ SP	L/ SP	L/ SP	L/ SP	--	SP	P/ SP	P/ SP	P/ SP	--	L/ SP	Sec. 6.4.29
Retail sales, under 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.30
Retail sales, over 5,000 square feet	P	P	P	P	--	SP	P	SP	SP	--	P	Sec. 6.4.30
Service establishment, up to 5,000 sq. feet	P	P	P	P	--	SP	P	--	P	--	--	Sec. 6.4.31
Service establishment, over 5,000 sq. feet	P	P	P	P	--	SP	P	--	SP	--	--	Sec. 6.4.31
Stable, public	--	--	--	--	--	--	--	--	--	--	SP	Sec. 6.4.32
Taxidermist	--	--	--	--	--	--	--	--	--	--	P	Sec. 6.4.33
Vehicle repair shop, minor	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicle repair shop, major	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicles sales and service facility, indoor	--	SP	--	--	--	SP	SP	--	--	SP	--	Sec. 6.4.35
Vehicles sales and service facility, outdoor	--	SP	--	--	--	SP	--	--	--	SP	--	Sec. 6.4.35
Veterinary hospital	--	SP	--	--	--	SP	SP	--	SP	P	P	Sec. 6.4.36
Industrial Uses												
Assembly or fabrication of materials manufactured off premise	--	--	--	--	--	P	SP	--	--	P	--	Sec. 6.5.1
Bakery, wholesale	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.2
Boat building, storage and repair	--	--	--	--	--	--	--	--	--	L	P	Sec. 6.5.3
Bottling works (except for alcoholic beverages)	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.4
Building materials sales yard and storage building	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.5
Contractor's yard	--	--	--	--	--	--	--	--	--	P	--	Sec. 6.5.6
Feed and seed store	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.7
Food processing, wholesale	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.8
Laboratory and research facility	SP	SP	SP	SP	SP	P	P	SP	P	P	P	Sec. 6.5.9
Laundry, cleaning & dyeing establishment	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.10
Manufacturing	--	--	--	--	--	L	--	--	--	P	P	Sec. 6.5.11
Manufacturing, molding, shaping or assembly from prepared materials (including repairs)	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.11
Paint store	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.12
Printing, publishing and reproduction establishment	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.13
Sign painting shop	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.14
P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed												

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Telecommunications and data storage facility	--	--	--	--	--	SP	--	--	--	--	SP	Sec. 6.5.15
Trash or yard waste, collection, storage, transfer-haul or composting	--	--	--	--	--	--	--	--	--	--	--	Sec. 6.5.16
Vehicle storage	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.5.17
Wholesale business or storage facility	--	L	--	--	--	SP	--	--	--	L	L	Sec. 6.5.18
Wholesale distribution plant	--	--	--	--	--	--	--	--	--	--	P	Sec. 6.5.19
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	Sec. 6.9
Manufacturing, uses not allowed by right	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.5.11
Open Space Uses												
Agriculture, on a parcel of 5 or more acres	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.6.1
Agriculture, on a parcel under 5 acres	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.1
Resource extraction	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.4
Restricted Uses												
Adult business	--	--	--	--	--	SP	--	--	--	--	SP	Sec. 6.10.1
Keno	SP	SP	SP	SP	--	SP	SP	SP				Sec. 6.10.2
Registered marijuana dispensary	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Craft Marijuana Cooperative	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Independent Testing Laboratory	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Cultivator	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Product Manufacturing	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Research Facility	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Retailer	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Marijuana Transporter	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Microbusiness	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3

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See [Sec. 7.8.4](#), Substandard Commercial Lots.

(Ord. No A-72, 04/04/16; Ord. No A-73, 04/04/16; Ord. No. A-99, 01/17/17; Ord. No. A-113, 06-19-17; Ord. No. B-5, 03-19-18; Ord. No. B-16, 12-03-18)

district and the City. Such conditions may include, but are not limited to, the following:

1. Requirement of front, side or rear yards greater than the minimum required by this Chapter;
2. Limitation of the number of occupants, size, method of time of operation, or extent of facilities; and
3. Requirement of off-street parking or other features beyond the minimum required by this, or any other applicable Chapter.

(Ord. No. S-260, 08/03/87; Ord. No. Y-17, 05/21/07)

7.3.4. Special Requirements for Rear Lots in Residential Zoning

A. Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in Secs. 3.1.5 and 3.1.10 for Single residence districts, and Secs. 3.2.5 and 3.2.12 for Multi residence districts, respectively, shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district unless waivers from such controls are granted by the City Council.

1. The provisions of Sec. 7.8.4 shall not apply to the creation of rear lots under this Sec. 7.3.4.
2. **Additional Application Requirements.** In addition to the information required in Sec. 7.3.1, there shall be submitted architectural plans for all proposed residential buildings and structures, a landscape plan, site plan, and an area plan showing distances from proposed buildings or structures to existing residential buildings and structures on the original lot and all abutting lots, along with information on the heights and number of stories of these existing buildings or structures. All plans must be prepared, stamped and signed, as appropriate, by an architect, landscape architect, professional engineer or registered land surveyor.

B. **Review Criteria.** The City Council shall consider the special permit application for a rear lot development in light of the following criteria:

1. Whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes;

2. The scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood;
3. Topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes;
4. Proposed landscape screening;
5. Adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways;
6. Whether any historic or conservation public benefit is provided or advanced by the proposed development;
7. Whether the location of structures used for accessory purposes or mechanical equipment, including but not limited to free-standing air conditioning units or compressors, on the new rear lot or on abutting lots will negatively impact either the proposed rear lot development or abutting property;
8. Siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes; and
9. Impact of proposed lighting on the abutting properties.

(Ord. No. X-123, 12/06/04; Ord. No. A-99, 01/17/17)

7.3.5. Special Requirements in MU3/TOD

A. **Additional Filing Requirements.** In addition to the provisions of Sec. 7.3 and Sec. 7.4, applicants for a special permit under Sec. 4.2.4 shall submit:

1. **Conceptual Plans.** Prior to submittal of an application for a special permit in the Mixed Use 3/Transit-Oriented Development (MU3/TOD), which will include subsection 2. to 12. below, applicants shall present conceptual plans for review by the Land Use Committee of the City Council at a public meeting. The Land Use Committee shall provide a forum for a public presentation whereby the Land Use Committee and public may ask questions,

gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:

- a. Project description, including project purpose or design rationale;
 - b. Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of beneficial and publicly-accessible open spaces;
 - c. Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, any access proposed to adjacent public property, whether or not it is currently available for public use, north arrow and scale; and
 - d. Other information as may be requested by City staff to perform a zoning review and preliminary impact analyses.
2. A 3D computer-generated model that shows the relationship of the project to its surroundings consistent with Sec. 7.3.1.B.;
 3. Narrative analysis describing design features intended to integrate the proposed mixed-use development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site-specific considerations, as well as an explanation of how the proposed mixed-use development satisfies each criterion in Sec. 7.3.6.B.;
 4. Statement describing how the beneficial open space areas, to the extent open to the public, are intended to be used by the public;
 5. Site plans showing any by right or zoning-exempt alternatives;
 6. A roadway and transportation plan reflecting the “EOEEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants. The plan should include the following:
 - a. Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single-occupant vehicles.
 - b. Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts.
 - c. Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated by the mixed-use development, documenting:
 - i. The projected base volume of trips to and from the mixed-use development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to the Commissioner of Public Works and Director of Planning and Development;
 - ii. The projected adjusted volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the mixed-use development guideline of adjusted volume being at least 10 percent below

- the base volume on weekday evening peak hours;
- iii. The means of making mitigations if it is found pursuant to the monitoring under Sec. 7.3.6.D. and Sec. 7.3.6.E. that the trips counted exceed the projected adjusted volume by 10 percent or more; and
 - iv. The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.
- d. Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the mixed-use development may have a negative impact. Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues. Analysis shall include:
- i. The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
 - ii. Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.
7. A shared-parking analysis that demonstrates that the number of parking spaces to be provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site-specific influences on parking supply and demand, such as, but not limited to, Red Sox home games.
8. Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants and shall include the following:
- a. A study of the proposed project’s surface water runoff relating to the Charles River and associated deep marsh system that shows how all storm water will be infiltrated on site, and which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
 - i. A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the Massachusetts Department of Environmental Protection’s “Stormwater Management Handbook” and the City’s “Requirements for On-Site Drainage (Stormwater Management)”;
 - ii. A drainage analysis based on the City’s 100-year storm event of seven inches over a 24 hour period, showing how runoff from impervious surfaces will be infiltrated on-site;
 - iii. An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;
 - iv. If a connection to the City’s drainage system is proposed, a closed-circuit television (CCTV) inspection, prior to approval of this permit, which shall be witnessed by the Engineering Division of Public Works; the applicant shall provide the City inspector with a video or CD prepared by a CCTV specialist hired by the applicant. A post-construction video inspection shall also take place and be witnessed as described above; and
 - v. An evaluation of hydraulic capacity of the downstream drainage system submitted to the Engineering Division of Public Works to determine any impact to the municipal drainage system.
 - b. A master plan and schedule of the sanitary sewer system improvements, including:
 - i. A plan showing a reduction in infiltration and inflow into the sanitary sewer system to the satisfaction of the Commissioner of Public Works;

- ii. A calculation of the life cycle cost of the proposed sanitary system;
 - iii. A quantitative analysis of the capacity to dispose, verified by the Massachusetts Water Resource Authority (MWRA); and
 - iv. A study showing how the developer will comply with the City’s cross connection control program relating to sewer and drain pipes.
- c. A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
- d. A solid waste master plan, including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with Revised Ordinances Chapter 11, Recycling and Trash, and the Massachusetts Department of Environmental Protection Waste Ban. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes.
- e. A quantitative analysis that demonstrates that the water demands of the proposed development will not overburden the water supply of existing infrastructure provided by the City, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The applicant must coordinate this test with both the Fire Department and Utilities Division of Public Works; representatives of each department shall witness the testing and test results shall be submitted in a written report. Hydraulic calculations shall be submitted to the Fire Department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the Director of Utilities.
9. Fiscal impact analysis that includes new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
10. Proposed phasing schedule, including infrastructure improvements.
11. Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon.
12. Submittal in electronic form of all documents required by Sec. 7.3 and Sec. 7.4 and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant to the City Council and pertaining to the special permit application, unless the applicant demonstrates to the satisfaction of the Director of Planning and Development that electronic submission or compliance with that standard is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard. Electronic submission must be contemporaneous with submission by any other means. The Director of Planning and Development will arrange to have electronically submitted documents posted on the City website within a reasonable time after receipt.
- B. Review Criteria.** Additional special permit criteria for a mixed-use development in the MU3/TOD district. In granting a special permit for a mixed-use development under Sec. 4.2.4, the City Council shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those listed in Sec. 7.3.3:
1. **Not inconsistent with the City’s Comprehensive Plan.** The proposed mixed-use development is not inconsistent with the City’s Comprehensive Plan in effect at the time of filing an application for a mixed-use development and applicable general laws relating to zoning and land use.
 2. **Housing, Public Transportation, Parking, and Utility Infrastructure Improvements.** The proposed mixed-use development offers long-term public benefits to the City and nearby areas including:
 - a. Improved access and enhancements to public transportation;

- b. Improvements to parking, traffic, and roadways;
 - c. On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
 - d. Public safety improvements;
 - e. On-site affordable housing opportunities, except where otherwise allowed in Sec. 5.11; and
 - f. Water, sewer, and storm water infrastructure improvements which increase capacity and lower impacts on the surroundings.
3. **Fiscal Impacts.** The proposed mixed-use development has a positive fiscal impact on the City after accounting for all new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
 4. **Improved Access Nearby.** Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed mixed-use development and abutting parcels and streets, with consideration given to streetscape continuity and an intent to avoid adverse impacts on nearby neighborhoods from such traffic and other activities generated by the mixed-use development as well as to improve traffic and access in nearby neighborhoods.
 5. **Enhanced Open Space.** Appropriate setbacks, buffering, and screening are provided from nearby residential properties; the quality and access of beneficial open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed mixed-use development; and meaningful bicycle and pedestrian connections to open spaces, recreational areas, trails, and natural resources, including the banks of the Charles River and adjacent public property, whether or not they are currently available for public use, are provided and take full advantage of the unique opportunities of the site and its nearby natural features for use and enjoyment by the community at large.
 6. **Excellence in Place-Making.** The proposed mixed-use development provides high quality architectural design and site planning so as to

enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the mixed-use development and its surroundings.

7. **Comprehensive Signage Program.** Notwithstanding the requirements of Sec. 5.2, all signage for the proposed mixed-use development shall be in accordance with a comprehensive signage program developed by the applicant and approved by the City Council, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the mixed-use development and character of the streetscape.
8. **Pedestrian Scale.** The proposed mixed-use development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the development parcel.
9. **Public Space.** The proposed mixed-use development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a vibrant street life, make connections to the surrounding neighborhood, as well as to the commercial and residential components of the mixed-use development, to other commercial activity, and to each other.
10. **Sustainable Design.** The proposed mixed-use development at least meets the energy and sustainability provisions of Sec. 7.3.3.C.5, and Sec. 7.4.5.B.8.
11. **Adequacy of Parking.** Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.
12. **Pedestrian and Neighborhood Considerations.** If the proposed mixed-use development project proposes any of the measures listed below, and if such measures, singly or in combination, create a negative impact on pedestrians or

surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such negative impact:

- a. Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
- b. Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
- c. Traffic signal additions, alterations, or roundabouts; and
- d. Relocation or alterations to public transport access points.

13. Accessible Design. Consideration is given to issues of accessibility, adaptability, visitability, and universal design in development of the site plan.

C. Project Phasing. Any development subject to a special permit under Sec. 4.2.4 may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

D. Adequacy of Public Facilities.

1. Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure shall serve the mixed use development appropriately and safely and without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the applicant as part of the special permit application process under Sec. 4.2.4 with the project scope determined by the Director of Planning and Development and the Commissioner of Public Works (peer reviews may be required, hired by the City and paid for by the applicant):
 - a. Adequacy of road and traffic infrastructure, including the traffic analysis required in Sec. 7.3.6.A.6.;
 - b. Adequacy of water, sewer, and storm water infrastructure, including the water, sewer, and storm water analysis required in Sec. 7.3.6.A.8.; and

- c. Net fiscal impacts, including the fiscal impact analysis required in Sec. 7.3.6.A.9.

2. As part of any special permit granted, post-construction studies for impacts on road and traffic capacity and water, sewer, and storm water service shall also be required. These studies must be conducted within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public Works, and continue annually for 2 years following final build-out. If the actual impacts are consistent with projections, no further study or mitigation shall be required. If the actual impacts exceed projections, further mitigation shall be required. Following completion of such additional mitigation, annual follow-up studies shall be conducted until these studies show for 5 years consecutively that the impacts from the development comply with the special permit.
3. The special permit shall also require a bond or other security satisfactory to the Director of Planning and Development and Commissioner of Public Works to secure performance. The bond or other security may be forfeited, at the election of the Director of Planning and Development and Commissioner of Public Works, and proceeds used by the City for mitigation if the applicant fails to complete any required mitigation or to manage impacts within acceptable levels identified by special permit, subject to reasonable extensions under the circumstances.

E. Post-Construction Traffic Study.

1. A special permit issued under Sec. 4.2.4 shall provide for monitoring to determine consistency between the projected and actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the site and their distribution among points of access to the mixed-use development. The special permit shall require a bond or other security satisfactory to the Commissioner of Public Works and Director of Planning and Development to secure performance as specified below:
 - a. Monitoring of vehicle trips for this purpose shall begin within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public

Works, and continue annually for 2 years following final build-out. Measurements shall be made at all driveway accesses to the mixed-use development and/or intersections studied in the pre-construction roadway and transportation plan. The Commissioner of Public Works may require traffic monitoring earlier or more frequently, if there appears to be degradation from the level of service projected by the pre-construction roadway and transportation plan.

- b. The actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the mixed-use development at all points studied in the pre-construction roadway and transportation plan shall be measured by a traffic engineering firm retained by the City and paid for by the applicant or successor.
- c. Mitigations will be required if actual total number of vehicle trips to and from the mixed-use development measured per paragraph b. above, summed over the points of access exceeds the weekday evening adjusted volume projected per Sec. 7.3.6.B.5. by more than 10 percent as a result of traffic generated by the mixed-use development. Within 6 months of notification, the owner of the mixed-use development site shall begin mitigation measures (reflecting applicable roadway design standards at the time and pending receipt of all necessary state and local approvals), as described in the roadway and transportation plan submitted by the applicant and listed in the mixed-use development special permit in order to reduce the trip generation to 110 percent or less of the adjusted volume. Such reduction is to be achieved within 12 months after mitigation begins. The Commissioner of Public Works and Director of Planning and Development must approve any mitigation efforts prior to implementation.

(Ord. No. Z-108, 04/17/12; Ord. No. A-6, 10/01/12)

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

- A. **Mixed Use 1 and 2 District.** [Reserved]
- B. **Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. **Mixed Use 4 District.** The purposes of the Mixed Use 4 district are to:
 - 1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
 - 2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
 - 3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
 - 4. Expand the diversity of housing options available in the City.
 - 5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-6, 10/01/12)

4.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3 apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/TOD	MU4
Lot Area Per Unit	10,000 sf	10,000 sf	1,200 850 sf	1,000 sf

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.
3. **Stories.** A special permit is required based on stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	NA	P
3 stories	P	SP	NA	--
3 stories, mixed use residential	NA	NA	NA	P
4 stories	SP	SP	NA	SP
5 stories, mixed use residential	NA	NA	NA	SP

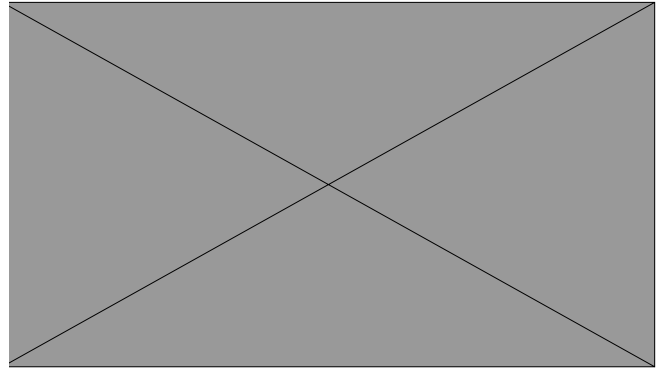
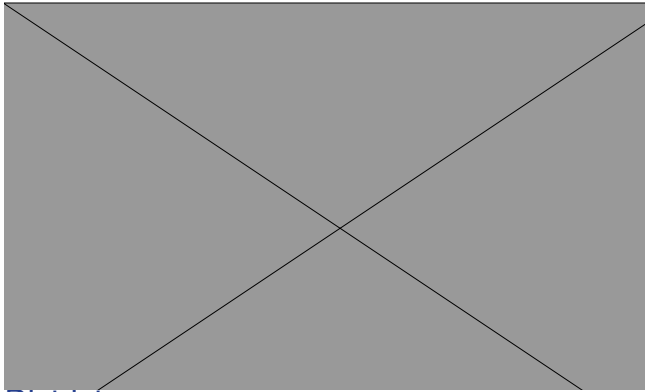
P = Allowed by Right

SP = Special Permit by City Council Required

NA=Not Applicable, -- Not Allowed

(Ord. No S-260, 08/03/87; Ord. No. A-73, 04/04/16; Ord. No. A-99, 01/17/17)

4.2.3. All Building Types in Mixed Use



Districts

Mixed Use Districts	MU1	MU2	MU3	MU4
Lot Dimensions				
(A) Lot Area (min)				
2 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
3 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
4 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
5 stories	--	--	9 ac	10,000 sf
(B) Lot Coverage (max)	--	--	--	--
(C) Beneficial Open Space	--	--	n/a by right; +510% by special permit	See Sec. 4.2.5
Building Setbacks				
(D) Front (min)				
1 story	15'	15'	See Sec. 4.2.4	See Sec. 4.2.5
2 or more stories	total ht of bldg	total ht of bldg		
Parking Setback	20'	15'		
(E) Side (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	7.5'		
Parking setback	5'	5'		
(F) Rear (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	0'		
Parking setback	5'	5'		
Building and Structure Height				
(G) Height (max)				
2 stories	36'	24'	36' by right;	24'
3 stories	36'	36'	+35230' by special permit	36'
4 stories	48'	48'		48'
5 stories	--	--		60'
(G) Stories (max) see also Sec. 4.2.2	3	4	418	8
Floor Area Ratio				
Floor Area Ratio (max)				
2 stories	1.50	1.00	up to 36' = 1.0	1.00
3 stories	1.50	1.50	up to +35230'	1.50
4 stories	2.00	2.00	= 2.427	2.00
5 stories	--	--		2.50

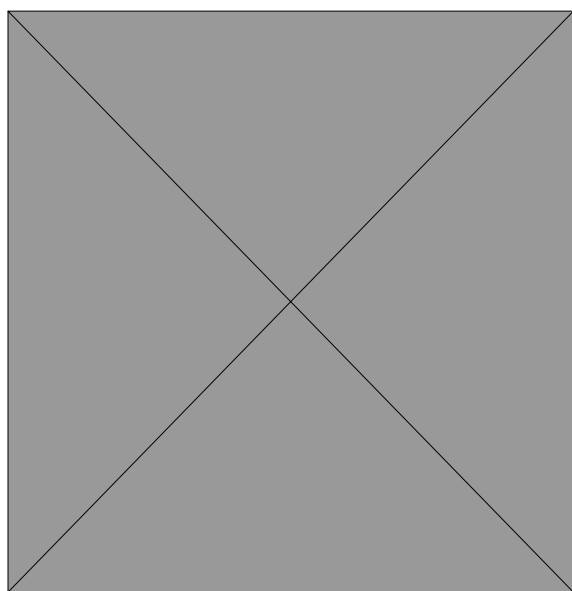
* Average setback is described in [Sec. 1.5.3](#)

-- Not Allowed

4.2.4. Additional Standards in MU 3/TOD

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/TOD, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

A. Setbacks. Any structure or building must be set back a distance ~~equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses of 15 feet (excluding balconies) on Grove Street. All other setbacks to lot lines shall be 0.~~ To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.



B. Beneficial Open Space. At least 50 percent of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public.

C. Exclusion of Public Structures from Zoning Requirements. Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:

1. The quantity of beneficial open space required;
2. Minimum lot area; or
3. Floor area ratio.

D. Impacts of Takings by or Conveyances to a Public Entity. The provisions of Sec. 7.8.4 shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. Establishment of a Development Parcel. The area developed under a special permit must be organized into a development parcel as defined in Article 8. The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 acres in size and does not create or expand any nonconformities.

F. Intensity of development.

1. The development must have at least one use from each of the three categories (A, B, and C) plus a community use space.
 - a. Category A: Office (including research and development, business incubator, medical office, and other similar uses);
 - b. Category B: Retail sales, personal services, restaurants, banking, health club, ~~place of entertainment and assembly~~place of amusement, indoor or outdoor, theater, lodging, hotel, motel, animal services; and
 - c. Category C: Multi-family, live/work space, single room occupancy, single person occupancy, assisted living, nursing home.
2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit for a mixed-use development.
3. The calculation of floor area ratio does not include any enclosed parking area or parking structure in the MU3/TOD District.

G. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in each category, so long as the total gross floor area of all uses, excluding accessory parking and non-accessory parking, does not exceed ~~580,000~~1,520,000 square feet:

1. Category A shall not exceed ~~225,000~~650,000 square feet (excluding offices incidental to residential, retail or community uses); ~~the majority of which must be contained within one structure~~;
2. Category B shall not exceed ~~20,000~~200,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
3. Category C shall not exceed ~~335,000~~750,000 square feet not to exceed ~~290~~675 dwelling units.

H. **Organization of Owners.** Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use

development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

(Ord. No. Z-108, 04/17/12)

4.2.5. Additional Standards in MU4

A. Design Standards for the Mixed Use 4 District.

Notwithstanding any provisions of this Article to the contrary, buildings and structures in the Mixed Use 4 district shall conform to the following standards:

1. **Height.** Buildings in the Mixed Use 4 district shall be a minimum of 2 stories and shall conform to the limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 4 stories and 48 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
2. **Mixed-Use Residential Incentive.** Buildings that meet the definition of mixed-use residential buildings shall conform to the specific limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 5 stories and 60 feet of building height by finding that the proposed

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Residential Uses												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.1
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.2
Residential use, above ground floor	L/SP	L/SP	L/SP	L/SP	--	SP	L/SP	P	P	--	--	Sec. 6.2.4
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	Sec. 6.2.4
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	Sec. 6.2.10
Live/work space	P	P	P	P	P	P	P	P	P	--	--	Sec. 6.2.11
Lodging House, above ground floor	SP	SP	SP	SP	--	SP	SP	SP	SP	--	--	Sec. 7
Civic/Institutional Uses												
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	Sec. 6.3.2
Community use space	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.4
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	Sec. 6.3.5
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	Sec. 6.3.6
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	Sec. 6.3.7
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	Sec. 6.3.8
Public use	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.10
Rail/bus station	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.11
Religious institution	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.12
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	--	SP	--	--	--	--	Sec. 6.3.13
School or other educational purposes, non-profit	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.14
Theatre, hall	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.3.15
Commercial Uses												
Animal service, excluding overnight boarding	--	--	--	--	--	SP	SP	<u>P</u> or <u>SP</u>	SP	--	--	Sec. 6.4.1
ATM, standalone	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	Sec. 6.4.2

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

(Ord. No. B-1, 02/20/18; Ord. No. B-27, 04/01/19)

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank, up to 5,000 square feet	P	P	P	P	--	SP	P	SP	P	--	P	Sec. 6.4.4
Bank, over 5,000 square feet	P	P	P	P	--	SP	SP	SP	P	--	P	Sec. 6.4.4
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	Sec. 6.4.5
Business incubator	P	P	P	P	--	P	P	P	--	P	p	Sec. 6.4.6
Business services	--	--	--	--	--	SP	P	--	--	--	--	Sec. 6.4.7
Car-sharing service, car rental, bike rental, electric car-charging station	P	P	P	P	P	P	P	P	P	--	P	Sec. 6.4.8
Car wash	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.4.9
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	Sec. 6.4.11
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	Sec. 6.4.12
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	Sec. 6.4.13
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.14
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	Sec. 6.4.15
Health club, above or below ground floor	P	P	--	P	--	P	P	P	SP	P	P	Sec. 6.4.16
Health club, ground floor	P	P	--	P	--	SP	SP	SP	SP	P	P	Sec. 6.4.16
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	Sec. 6.4.17
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	Sec. 6.4.18
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	Sec. 6.4.18
Kennel	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.4.19
Office	P	P	P	P	P	P	P	L	L/SP	P	P	Sec. 6.4.20
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	Sec. 6.4.21
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	Sec. 6.4.22
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	Sec. 6.4.23
Parking facility, accessory, single level	P	P	P	P	--	P	P	P or SP or L	P	P	P/SP	Sec. 6.4.24
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	SP	SP	P or SP or L	SP	SP	SP	Sec. 6.4.24
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	SP	--	P or SP or L	P	SP	SP	Sec. 6.4.24
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	SP	--	P or SP or L	SP	SP	SP	Sec. 6.4.24
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.25

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

Appendix C: Community Group Proposal

THE NEWTON LOWER FALLS IMPROVEMENT ASSOCIATION RIVERSIDE COMMITTEE'S PROPOSED AMENDMENTS TO THE MU3 DISTRICT PROVISIONS OF THE NEWTON ZONING ORDINANCE

Below is a re-typed copy of Sections 4.2 and 7.3.5 of the Newton Zoning Ordinance. Although formatted differently, every effort has been made to accurately reproduce the existing ordinance. Proposed deletions from the current provisions appear as red strike-outs. Proposed additions to the current provisions appear as red, underlined text.

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

A. Mixed Use 1 and 2 District. [Reserved]

B. Mixed Use 3/~~Transit-Oriented Development~~. The purpose of the Mixed-Use 3/~~Transit-Oriented~~ district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide ~~beneficial open~~high-quality outdoor and indoor spaces; ~~that promote civic engagement and create a sense of community~~ protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play. In addition, the purposes of the Mixed-Use 3 district provisions of the Zoning Ordinance are to: (a) protect the adjacent neighborhoods of Newton Lower Falls and Auburndale from impacts of development in the district, including traffic, noise, visual impacts, as well as from change of neighborhood character; (b) to protect the residents of the streets adjacent to or near off-site roadway modifications made in connection with development in the district from all adverse effects thereof, including inconvenience, delays, hazards, noise and pollution; and (c) to ensure that development in the district is appropriately designed and scaled for the narrow scenic road, Grove Street, on which the district fronts, and is a healthy, safe and comfortable environment for its residents.

C. Mixed Use 4 District. The purposes of the Mixed Use 4 district are to:

1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.

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2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
4. Expand the diversity of housing options available in the City.
5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

4.2.2. Dimensional Standards

A. Applicability

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3. apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/ TOD	MU4
Lot Area Per Unit (min)	10,000 sf	10,000 sf	1,200 sf	1000 sf

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings,

Section 4.2

structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.

3. Stories. A special permit is required based on stories according to the following table:

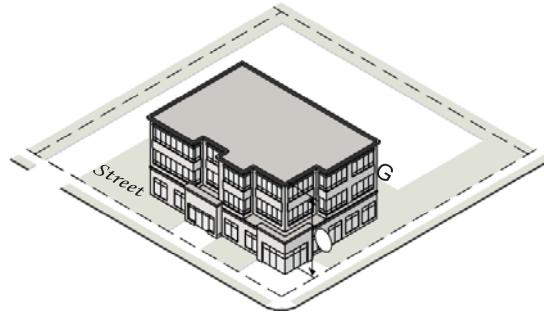
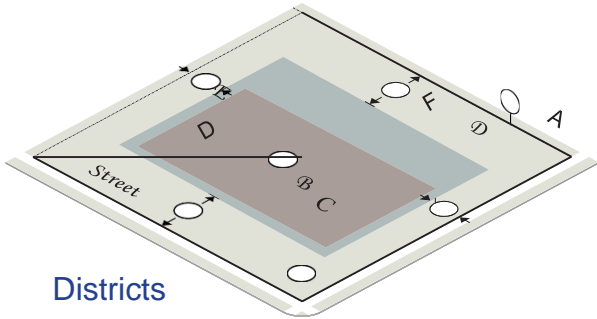
Stories	MU1	MU2	MU3/ TOD	MU4
2 stories	P	P	NA	p
3 stories, mixed use residential	NA	NA	NA	P
4 stories	SP	SP	NA	SP
5 stories, mixed use residential	NA	Na	NA	SP

P = Allowed by Right

SP = Special Permit by City Council Required

NA = Not Applicable, -- Not Allowed

4.2.3 All Building Types in Mixed Use



Districts

Mixed Use Districts	MU1	MU2	MU3	MU4
Lot Dimensions				
3 (A) Lot Area (min)				
2 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
3 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
4 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
5 stories	--	--	9 ac	10,000 sf
(B) Lot Coverage (max)	--	--	--	--
(C) Beneficial Open Space			n/a by right; 15% by special permit	See Sec. 4.2.5
C.1 Civic Open Space	--	--	15% for special permit	
Building Setbacks				
4 (D) Front (min)				
1 story	15'	15'	See Sec. 4.2.4	See Sec. 4.2.5
2 or more stories	total ht of bldg	total ht of bldg		
Parking Setback	20'	15'		
(E) Side (min)				
Abutting residential or Public Use district	Greater of ½ bldg ht or 20'	Greater of ½ bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	7.5'		
Parking setback	5'	5'		
(F) Rear (min)				
Abutting residential or Public Use district	Greater of ½ bldg ht or 20'	Greater of ½ bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	0'		
Parking setback	5'	5'		
Building and Structure Height				
5 (G) Height (max)				
2 stories	36'	24'	36' by right;	24'
3 stories	36'	36'	135' by	36'
4 stories	48'	48'	special permit	48'
5 stories	--	--		60'
G Stories (max) see also Sec. 4.2.2	3	4	4	8
Floor Area Ratio				
Floor Area Ratio (max)				
2 stories	1.50	1.00	up to 36' = 1.0	1.00
3 stories	1.50	1.50	up to 135' =	1.50
4 stories	2.00	2.00	2.4	2.00
5 stories	--	--		2.50

* Average setback is described in [Sec. 1.5.3](#)

4.2.4. Additional Standards in MU 3/~~TOD~~

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/~~TOD~~, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

A. Building Heights and Setbacks.

Notwithstanding anything to the contrary in Section 4.2.3, buildings in the MU3 district shall conform to the following:

1. For buildings on Grove Street:

a. The maximum building height is 4 stories or 44 ft, whichever is lower.

b. The minimum setback from Grove Street is 30 ft. from the Grove Street lot line.

c. Any building with a length along Grove Street of more than 115 ft. must have an additional 15 ft. minimum setback for so much of the building length along Grove as exceeds 100 ft. Each such further setback portion of the building shall be 15 ft. long.

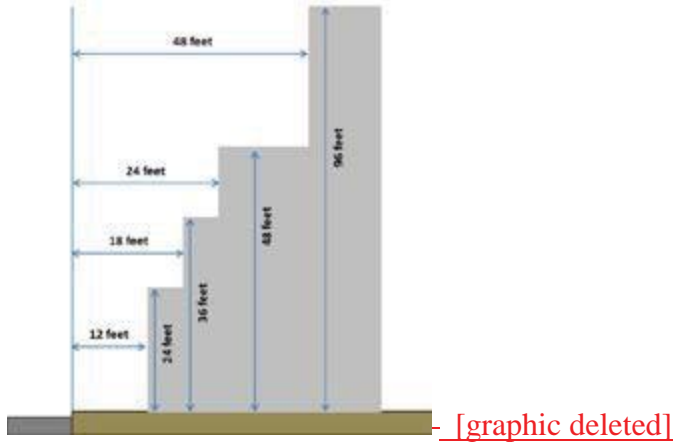
d. Buildings must be separated from one another by a minimum of 15 ft.

Any building not separated from Grove Street by another building or another street is a building on Grove Street that is subject to the provisions of this paragraph 4.2.4.A.1.

2. For all buildings not subject to paragraph 4.2.4.A.1 above, all buildings higher than 50 ft. shall have its stories above 50 ft. set back from the lower 50 ft. high portion of the building by appropriate distance to ensure adequate light, air and sky exposure within the development parcel. In particular, such buildings shall be located and designed so as not to cast excessive shadows on civic open spaces (see sec. 4.2.4.B.2 below) within the development.

~~Any structure or building must be set back a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.~~

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B. Open Spaces.

1. Beneficial Open Space. At least 50 percent of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public.

2. Civic Open Space. Civic open space is high-quality, public-use open space, of adequate size and design to allow for public congregation. Primary types of civic open space are plazas, parks, playgrounds, playing fields, and community gardens. Each civic open space shall be designed to accommodate one or more specific public uses and shall include the necessary infrastructure and amenities to support such uses. Civic open space *does not* include: space located on top of a structure; driveways or roadways, walkways or other areas intended primarily for circulation (whether or not they incorporate landscape features, sculpture or artwork, public benches or other public amenities) unless within a space that otherwise qualifies as civic open space; building terraces; areas adjacent to highway ramps; or traffic islands. No area of less than 400 sq. ft. or less than 20 ft. in either length or width shall qualify as civic open space. Civic open spaces must be located adjacent to one or more of the retail, office, residential or community center structures in the district. Land used to satisfy the Beneficial Open Space requirement of Section 4.2.1 shall not be counted toward the Civic Open Space requirement and vice-versa.

C. Exclusion of Public Structures from Zoning Requirements. Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:

1. The quantity of beneficial open space required;

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2. Minimum lot area; or
3. Floor area ratio.

D Impacts of Takings by or Conveyances to a Public Entity. The provisions of Sec. 7.8.4 shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. Establishment of a Development Parcel. The area developed under a special permit must be organized into a development parcel as defined in Article 8. The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 acres in size and does not create or expand any nonconformities.

F. Intensity of development.

1.—

In addition to the beneficial open space and civic open space required under sections 4.2.3 and 4.2.4.B, the development must have at least one use from each of the ~~three~~four categories (A, B, ~~and C, and D~~) below: ~~plus a community use space.~~

- a. **Category A:** Office (including research and development, business incubator, medical office, and other similar uses);
- b. **Category B:** Retail sales, personal services, restaurants, banking, health club, place of entertainment and assembly, theater, ~~lodging, hotel, motel~~; and
- c. **Category C:** Multi-family, live/work space, single room occupancy, single person occupancy, assisted living nursing home.
- d. **Category D: Community Center.** Community center means indoor space within a single building that is appropriate for a variety community uses, such as meetings, classes, after-school programs, and athletic activities that is open to the public and operated either by a non-profit organization funded by the project applicant or such other mechanism as shall be specified in the Special Permit.

In addition, if the development parcel includes the land shown on the Approval Not Required Plan, 399 Grove Street, dated October 20, 2015 and recorded at Middlesex

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County Registry of Deeds, Plan Book 2015, No. 1050 (the "Indigo Parcel"), the development may also include **Category E**: lodging, hotel or motel.

2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit ~~for a mixed-use development~~.

G.

1. Except as set forth in section 4.2.4.G.2 below, ~~the~~ the square footage in each category shall ~~meet the not exceed the maximums~~ **requirements** listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in ~~each~~ **any** category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed: (a) ~~580,000~~ **650,000** square feet if the development parcel includes only land leased from the MBTA (the "MBTA Parcel"); or (b) 825,000 square feet if the development parcel includes both the MBTA parcel and the Indigo Parcel:

- ~~1.~~ Category A shall not exceed ~~225,000~~ **120,000** square feet (excluding offices incidental to residential, retail or community uses), the majority of which must be contained within one structure;
- ~~2.~~ Category B shall not exceed ~~20,000~~ **40,000** square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
- ~~3.~~ Category C shall not exceed ~~335,000~~ **480,000** square feet not to exceed ~~290~~ **415** dwelling units.

Category D shall be no less than 1.5% of the total square footage of all other use categories (i.e., Categories A,B,C and E).

Category E: if permitted under sec. 4.2.4.F.1, shall not exceed 176,000 square feet.

2. **Direct Access to and from Rt. 128/I-95 Northbound and Southbound.** If, and only if, the special permit is conditioned on the provision of direct access (i.e., not utilizing Grove Street) to and from the development parcel to and from Rt. 128/I-95 northbound **and** direct access to and from the development parcel to and from Rt. 128/I-95 southbound, the total square footage permitted under paragraph 1 of this section 4.2.4.G shall be increased by 100,000 square feet, which shall be distributed proportionately amongst the Categories A-C uses set forth in Sections 4.2.4.F and G. Notwithstanding

the foregoing, all special permit applications shall be subject to the findings required under Sections 7.3.3.C and 7.3.5.B.

H. Organization of Owners. Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

7.3.5. Special Requirements in MU3/TOD

A. Additional Filing Requirements. In addition to the provisions of Sec. 7.3 and Sec. 7.4, applicants for a special permit under Sec. 4.2.4 shall submit:

1. Conceptual Plans. Prior to submittal of an application for a special permit in the Mixed Use 3/~~Transit-Oriented Development~~ (MU3/TOD), which will include subsection 2. to 12. below, applicants shall present conceptual plans for review by the Land Use Committee of the City Council at a public meeting. The Land Use Committee shall provide a forum for a public presentation whereby the Land Use Committee and public may ask questions, gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:
 - a. Project description, including project purpose or design rationale;
 - b. Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of civic open space, beneficial open space and publicly-accessible beneficial open spaces;
 - c. Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, any access proposed to adjacent public property, whether or not it is currently available for public use, north arrow and scale; and
 - d. Other information as may be requested by City staff to perform a zoning review and preliminary impact analyses.
2. A 3D computer-generated model that shows the relationship of the project to its surroundings consistent with Sec. 7.3.1.B.;
3. Narrative analysis describing design features intended to integrate the proposed mixed-use development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site-specific considerations, as well as an explanation of how the proposed mixed use development satisfies each criterion in Sec. 7.3.3 and Sec. 7.3.65.B.;
4. Statement describing how the beneficial open space areas, to the extent open to the public, and the civic open space areas are intended to be used by the public;

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5. Site plans showing any by right or zoning exempt alternatives;
6. A roadway and transportation plan reflecting the “EOEEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the Commissioner of Public Works, Director of Planning and Development, Director of Transportation, and peer review consultants. The plan should include the following:
 - a. Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single occupant vehicles.
 - b. Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts.
 - c. Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated by the mixed-use development, documenting:
 - i. The projected base volume of trips to and from the mixed-use development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to the Commissioner of Public Works and Director of Planning and Development, and also specifically addressing the impact on trip volume of both transportation networks (e.g., Uber and Lyft) and delivery vehicles associated with online purchases;
 - ii. The projected adjusted volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the mixed use development guideline of adjusted volume being at least 10 percent below the base volume on weekday evening peak hours;
 - iii. The means of making mitigations if it is found pursuant to the monitoring under ~~Sec. 7.3.6.D. and~~ Sec. 7.3.65.E. that the trips counted exceed the projected adjusted volume by 10 percent or more; and

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iv. The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.

d.

i. Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the mixed-use development may have a negative impact. The study area for the traffic impact analysis shall include, without limitation, all roadways expected to receive 50 or more peak hour vehicle trips from the proposed development and the following intersections:

Washington Street at Beacon Street

Washington Street at Quinobequin Road/ Wales Road/Route 128

SB Ramps

Washington Street at Concord Street

Washington Street at Grove Street

Concord Street at Hagar Street

Route 128 Exit 21B Collector-Distributor Road at Route 128 SB

On-Ramp

Washington Street at Route 128 NB Ramps

Grove Street at Hagar Street / Colgate Road (All-Way Stop)

Grove Street at Route 128 SB Ramps / Asheville Road

Grove Street at Route 128 NB Ramps

Grove Street at Hotel Indigo Driveway / Condo Driveway

Grove Street at MBTA Riverside Driveway

Grove Street at Riverside Office Building South Driveway

Grove Street at Riverside Office Building North Driveway /

Seminary Drive

Grove Street at Riverside Office Building Center Driveway

Grove Street at Hancock Street

Grove Street at Woodland Street (All-Way Stop)

Grove Street at Central Street and Auburn Street

Woodland Street at Hancock Street (All-Way Stop)

Woodland Street at Central Street (All-Way Stop)

Lexington Street at Auburn Street / Commercial Driveway

Washington Street at Woodland Street

Commonwealth Avenue at Lexington Street

Lexington Street at Wolcott Street

Commonwealth Avenue at Melrose Street

Commonwealth Avenue at Auburn Street (East)

Commonwealth Avenue at Washington Street

Washington Street at Auburn Street

Washington Street at Perkins Street

Washington Street at Mass Pike EB On-Ramp

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Washington Street at Mass Pike WB Off-Ramp
South Avenue at River Road / Route 128 SB Ramps
South Avenue / Commonwealth Avenue at Route 128 NB Ramps
Commonwealth Avenue at Auburn Street (West)

- ii. Analysis of traffic impacts within the study area of site-specific high-traffic events, including but not limited to Red Sox home games.

Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues. Analysis shall include:

- i. The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
- ii. Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.

- e. Analysis of peak traffic flow and circulation within the development parcel and the potential for backups within the parcel that could impact and/or impede traffic flows or fire and police operations within or adjacent to the parcel. This analysis shall include, without limitation, an assessment of the exit/entrance efficiency of parking structures and the potential for backups resulting from vehicles pulling into and/or out of parking stalls; interactions between MBTA and other buses with other vehicle traffic; the potential effects of double-parking (including by delivery vehicles, taxis and transportation network vehicles), car breakdowns, and other foreseeable events that may impede projected traffic flow; and an analysis of the impacts of site-specific high-traffic events, including but not limited to Red Sox home games.

- 7. All transportation-related studies, reports, submissions or filings required to be submitted to any state or federal agency in connection with the proposed-mixed use development (including those required as a result of any required or proposed roadway changes or traffic mitigation measures in connection with the proposed-mixed use development).

- 8. All of the following collected or prepared in connection with any of the submissions required under Section 7.3.5.A.6 and 7

above:

-All capacity analysis files, simulation files, animation files, and all modeling files, including but not limited to all analysis files for use with the following software applications:

Synchro/SimTraffic

Highway Capacity Software

PTV Vissim

-All traffic count and speed data files (both Excel files and PDFs).

7. A shared-parking analysis that demonstrates that the number of parking spaces to be provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site-specific influences on parking supply and demand, such as, but not limited to, Red Sox home games.
8. Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants and shall include the following:
 - a. A study of the proposed project's surface water runoff relating to the Charles River and how all storm water will be infiltrated on site, and which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
 - i. A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the Massachusetts Department of Environmental Protection's "Stormwater Management Handbook" and the City's "Requirements for On-Site Drainage (Stormwater Management)";
 - ii. A drainage analysis based on the City's 100-year storm event of seven inches over a 24 hour period, showing how runoff from impervious surfaces will be infiltrated on-site;
 - iii. An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;
 - iv. If a connection to the City's drainage system is proposed, a closed-circuit television (CCTV) inspection, prior to approval of this

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permit, which shall be witnessed by the Engineering Division of Public Works; the applicant shall provide the City inspector with a video or CD prepared by a CCTV specialist hired by the applicant. A post-construction video inspection shall also take place and be witnessed as described above; and

- v. An evaluation of hydraulic capacity of the downstream drainage system submitted to the Engineering Division of Public Works to determine any impact to the municipal drainage system.
- b. A master plan and schedule of the sanitary sewer system improvements, including:
- i. A plan showing a reduction in infiltration and inflow into the sanitary sewer system to the satisfaction of the Commissioner of Public Works;
 - ii. A calculation of the life cycle cost of the proposed sanitary system;
 - iii. A quantitative analysis of the capacity to dispose, verified by the Massachusetts Water Resource Authority (MWRA); and
 - iv. A study showing how the developer will comply with the City's cross connection control program relating to sewer and drain pipes.
- c. A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
- d. A solid waste master plan, including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with Revised Ordinances Chapter 11, Recycling and Trash, and the Massachusetts Department of Environmental Protection Waste Ban. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes.
- e. A quantitative analysis that demonstrates that the water demands of the proposed development will not overburden the water supply of existing infrastructure provided by the City, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The applicant must coordinate this test with both the Fire Department and Utilities Division of Public Works; representatives of each department shall witness the testing and test results shall be

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submitted in a written report. Hydraulic calculations shall be submitted to the Fire Department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the Director of Utilities.

9. Fiscal impact analysis that includes new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.

10. Construction management plan including timeline, detailed analysis of traffic, noise, vibration and other impacts on the surrounding neighborhoods, the duration of such impacts, and how they will be managed, as well as a Proposed phasing schedule, including infrastructure improvements.

11. Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon.

12. Visual Impact Studies.

A. Photographs showing the current appearance of the development parcel from the below listed locations, and the same photographs incorporating accurately scaled renderings of the proposed development to show the visual impact of the proposed development on the surrounding area:

(i) Grove Street, Norumbega Court, Williston Road and Central Avenue in Auburndale;

(ii) Grove Street from both the northeast and southwest ends of the development parcel;

(iii) Crehore Drive, DeForest Road, Grove Street and Hamilton Field in Newton Lower Falls;

(iv) Recreation Road, the Charles River, and Riverside Park, and the same photographs.

All of the above photographs shall be taken from the points along the identified roads, the Charles River and Riverside Park where the buildings proposed to be constructed would be the most visible.

B. Simulations showing the appearance of the proposed project after dark with all external and internal lighting in use at all locations identified in paragraph A above.

C. After opening of the public hearing on the special permit application, a balloon test shall be conducted at the expense of the applicant to demonstrate the height and visibility of all proposed buildings over 60 feet high. Where the building is designed with increased setbacks at higher floors, balloons shall be positioned at each corner of the highest point of each section of the building with

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a different setback. The balloons shall remain in place for sufficient time to allow members of the public and the City Council to observe them.

13. Noise Analyses.

A. A study of the noise impacts on Newton Lower Falls and Auburndale of both the construction of the proposed development and of the proposed development as operated, including but not limited to the impact the proposed development will have on noise from Rt. 128/I-95 reflected into Newton Lower Falls.

B. A study of the noise levels that will exist in any portion of the development in which there will be residential structures, beneficial open spaces or civic open spaces. Noise sources to be evaluated include but are not limited to traffic on Rt. 128/I-95, traffic on Grove Street, MBTA trains, buses and shuttles (including both MBTA and private buses and shuttles), other MBTA operations, private vehicles, including delivery vehicles, trash removal vehicles, mechanical systems of the proposed structures in the development parcel and proposed uses of the development parcel.

14. Wind Study.

A. Wind tunnel testing or computational fluid dynamics simulations shall be required for any proposed development that includes one or more buildings of 100 feet or more in height.

B. The analysis shall determine potential pedestrian level winds within the development parcel and shall identify any areas where wind velocities are expected to exceed the acceptable levels set forth in Sec. 7.3.5.B.7.

C. The analysis also shall determine the suitability of particular locations for various activities (e.g., walking, sitting, eating, etc.) as appropriate.

D. Particular attention shall be given to public and other areas of pedestrian use, including, but not limited to, civic open space, beneficial open space and sidewalks.

E. Wind speeds shall be measured in miles per hour.

F. For areas where wind speeds are projected to be dangerous or to exceed acceptable levels, measures to reduce wind speeds and to mitigate potential adverse impact shall be identified and, if appropriate, tested.

125. Submittal in electronic form of all documents required by Sec. 7.3 and Sec. 7.4 and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant to the City Council and pertaining to

the special permit application, unless the applicant demonstrates to the satisfaction of the Director of Planning and Development that electronic submission or compliance with that standard is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard. Electronic submission must be contemporaneous with submission by any other means. The Director of Planning and Development will arrange to have electronically submitted documents posted on the City website within a reasonable time after receipt.

B. Review Criteria.

Section 7.3.3 Special Permit Criteria Applied in the MU3 District:

The provisions of Sec. 7.3.3 apply to all special permit applications in the MU3 district. Thus, no special permit may be granted unless all of the criteria set forth in Sec. 7.3.3.C are met, including but not limited to Sec. 7.3.3.C.2 which states that: “The use as developed and operated will not adversely affect the neighborhood.” For avoidance of doubt, as applied in the MU3 district, the neighborhood to be considered includes Newton Lower Falls and Auburndale. No special permit shall be granted if there is any adverse effect of the proposed development on any portion of either or both of these neighborhoods. Adverse effects must be assessed without regard to any perceived benefits from the proposed project.

Additional special permit criteria for a mixed-use development in the MU3/~~TOD~~ district.

In granting a special permit for a mixed-use development under Sec. 4.2.4, the City Council shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those listed in Sec. 7.3.3:

1. **Not inconsistent with the City’s Comprehensive Plan.** The proposed mixed-use development is not inconsistent with the City’s Comprehensive Plan in effect at the time of filing an application for a mixed-use development and applicable general laws relating to zoning and land use.
2. **Housing, Public Transportation, Parking, and Utility Infrastructure Improvements.** The proposed mixed-use development offers long-term public benefits to the City and nearby areas including:
 - a. Improved access and enhancements to public transportation;
 - b. Improvements to parking, traffic, and roadways;
 - c. On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
 - d. Public safety improvements;

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- e. On-site affordable housing opportunities, except where otherwise allowed in Sec.5.11; and
- f. Water, sewer, and storm water infrastructure improvements which increase capacity and lower impacts on the surroundings.

3. Post-Construction Traffic Mitigation Measures. The traffic mitigation measures set forth in the Special Permit application pursuant to Sec. 7.3.5.A.6.c.iii will result in a reduction of traffic volumes to volumes that are at or below 110% of projected traffic volumes (as is required under Sec. 7.3.5.E.1.c.).

4. Visual Impacts.

A. The proposed mixed-use development will have no adverse visual impact on the residential areas of Newton Lower Falls and Auburndale either during the day or at night. Adverse visual impact means that the visual aesthetic or character of the neighborhood, including the view that all or some residents will have from their properties when looking toward the Development Parcel, will be inconsistent with the low-rise, residential character of these areas of Newton Lower Falls and Auburndale.

B. Lighting for the proposed mixed-use development and/or off-site lighting to be installed in connection with the proposed mixed-use development will cause no increase in nighttime light levels in or on any surrounding residential property.

C. The proposed mixed use development will not cause any solar glare on Rt. 128/95 or in any of the surrounding neighborhoods.

D. The proposed mixed use development will be complementary to and not in conflict with the existing appearance and views from the Charles River and Riverside Park.

5. Consistent with Character of the Surrounding Neighborhoods and Grove Street. Recognizing that Newton Lower Falls and Auburndale are predominantly quiet, residential, low-rise neighborhoods and that Grove Street is a narrow, tree-lined scenic road with many historic homes, neither the height, density, or design of the proposed-mixed use development will alter these existing characteristics or look and feel of any portion of Newton Lower Falls, Auburndale or Grove Street and that, instead, the proposed mixed-use development is consistent with and will maintain these existing characteristics.

6. Noise.

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A. The proposed mixed-use development will not increase noise levels in any portion of Newton Lower Falls or Auburndale. Noise sources to be considered include but are not limited noise from the operation or uses of the proposed development, increased traffic, and reflected highway traffic noise.

B. Noise levels will not exceed 55 decibels within 6 feet of the location of any proposed containing residential units, beneficial open space or civic open space, whether the source of the noise is within or external to the development parcel.

7. Wind. The proposed mixed-use development will not cause ground-level ambient wind speeds to exceed the standards in the below table:

<u>Permitted Occurrence Activity Area Frequency</u>	<u>Effective Gust Velocity*</u>	<u>Annual</u>
<u>Limit for All Pedestrian Areas</u>	<u>13.8 m/sec (31 mph)</u>	<u>1%</u>
<u>Major Walkways - Especially Principal Egress Path for High-Rise Buildings</u>	<u>13.8 m/sec</u>	<u>1%</u>
<u>Other Pedestrian Walkways - Including Street and Arcade Shopping Areas</u>	<u>11.2 m/sec (25 mph)</u>	<u>5%</u>
<u>Open Plazas and Park Areas, Walking and Strolling Areas</u>	<u>6.3 m/sec (14.1 mph)</u>	<u>15%</u>
<u>Open Plaza and Park Areas, Open-Air Restaurants</u>	<u>4.0 m/sec (9 mph)</u>	<u>20%</u>

* The effective gust velocity (egv) is defined as $egv = U + 1.5 fvc$, where U is the mean wind speed at a particular location and fvc is the root mean square of the fluctuating velocity component measured at the same location over the same time interval.

38. Fiscal Impacts. The proposed mixed-use development has a positive fiscal impact on the City after accounting for all new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.

49. Improved Access Nearby. Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed mixed-use development and abutting parcels and streets, with consideration given to streetscape continuity and ~~an intent~~ the requirement to avoid any adverse impacts on nearby neighborhoods from such traffic and other activities generated by the mixed-use development as well as to improve traffic and access in nearby neighborhoods.

- 510. Enhanced Open Space.** Appropriate setbacks, buffering, and screening are provided from nearby residential properties and Grove Street; the quality and access of beneficial open space, civic open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed mixed-use development; and meaningful bicycle and pedestrian connections to open spaces, recreational areas, trails, and natural resources, including the banks of the Charles River and adjacent public property, whether or not they are currently available for public use, are provided and take full advantage of the unique opportunities of the site and its nearby natural features for use and enjoyment by the community at large.
- 611. Excellence in Place-Making.** The proposed mixed-use development provides high quality architectural design and site planning so as to be compatible with the style of the residential properties in Newton Lower Falls and Auburndale, to minimize the visual impact of the development on Grove Street, Lower Falls, Auburndale and the Charles River, and to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the mixed-use development and its surroundingsthe neighborhoods of Lower Falls and Auburndale.
- 712. Comprehensive Signage Program.** Notwithstanding the requirements of Sec. 5.2, all signage for the proposed mixed-use development shall be in accordance with a comprehensive signage program developed by the applicant and approved by the City Council, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the mixed-use development and character of the streetscape. The signage program shall include no signage (including banners, posters, flags or the like), whether exterior or interior for any office or retail uses where they will be visible from Grove Street, or from any residential or recreation areas of Newton Lower Falls or Auburndale. In addition, it shall be a condition of the special permit that no retail tenant or occupant be permitted to hang or place any signage (including banners, posters or the like in any location where they are visible from Grove Street or any residential area of Newton Lower Falls or Auburndale, including but not limited to temporary signage advertising sales, prices or products.
- 813. Pedestrian Scale.** The proposed mixed-use development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the development parcel.
- 914. Public Space.** The proposed mixed-use development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a vibrant street life, make connections to the surrounding neighborhood, as well as

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to the commercial and residential components of the mixed-use development, to other commercial activity, and to each other.

- 105. Sustainable Design.** The proposed mixed-use development at least meets the energy and sustainability provisions of Sec. 7.3.3.C.5. and Sec. 7.4.5.B.8.
- 116. Adequacy of Parking.** Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.
- 127. Pedestrian and Neighborhood Considerations.** If the proposed mixed-use development project proposes any of the measures listed below, and if such measures, singly or in combination, create a negative impact on pedestrians or surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such negative impact:
 - a. Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
 - b. Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
 - c. Traffic signal additions, alterations, or roundabouts; and
 - d. Relocation or alterations to public transport access points.
- 138. Accessible Design.** Consideration is given to issues of accessibility, adaptability, visitability, and universal design in development of the site plan.
- 19. Construction Impacts.** Construction of the proposed mixed-use development (including construction of associated roadway changes) will have no significant adverse impact on Newton Lower Falls and Auburndale. Significant adverse impacts include noise levels above 55 decibels, anything in excess of short-term minimal exposure to dust or vibration, traffic delays and/or interruption in the use of Grove Street, parking on residential streets and interference with prompt response times of the Newton Fire and Police Departments and other emergency vehicles to any area of Newton Lower Falls or Auburndale.

C. Project Phasing. Any development subject to a special permit under Sec. 4.2.4 may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

D. Adequacy of Public Facilities.

- 1. Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure

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shall serve the mixed use development appropriately and safely and without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the applicant as part of the special permit application process under Sec. 4.2.4 with the project scope determined by the Director of Planning and Development and the Commissioner of Public Works (peer reviews may be required, hired by the City and paid for by the applicant):

- a. Adequacy of road and traffic infrastructure, including the traffic analysis required in Sec. 7.3.65.A.6.;
 - b. Adequacy of water, sewer, and storm water infrastructure, including the water, sewer, and storm water analysis required in Sec. 7.3.65.A.8.; and
 - c. Net fiscal impacts, including the fiscal impact analysis required in Sec. 7.3.65.A.9.
2. As part of any special permit granted, post-construction studies for impacts on road and traffic capacity and water, sewer, and stormwater service shall also be required. These studies must be conducted within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public Works, and continue annually for 25 years following final build-out. If the actual impacts are consistent with projections, no further study or mitigation shall be required. If the actual impacts exceed projections, further mitigation shall be required. Following completion of such additional mitigation, annual follow-up studies shall be conducted until these studies show for 5 years consecutively that the impacts from the development comply with the special permit.
3. The special permit shall also require a bond or other security satisfactory to the Director of Planning and Development and Commissioner of Public Works to secure performance. The bond or other security may be forfeited, at the election of the Director of Planning and Development and Commissioner of Public Works, and proceeds used by the City for mitigation if the applicant fails to complete any required mitigation or to manage impacts within acceptable levels identified by special permit, subject to reasonable extensions under the circumstances.

E. Post-Construction Traffic Study.

1. A special permit issued under Sec. 4.2.4 shall provide for monitoring to determine consistency between the projected and actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the site and their distribution among points of access to the mixed-use development. The special permit shall require a bond or other security satisfactory to the Commissioner of Public Works and Director of Planning and Development to secure performance as specified below:

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- a. Monitoring of vehicle trips for this purpose shall begin within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public Works, and continue annually for 25 years following final build-out. Measurements shall be made at all driveway accesses to the mixed-use development and/or intersections studied in the pre-construction roadway and transportation plan. The Commissioner of Public Works may require traffic monitoring earlier or more frequently, if there appears to be degradation from the level of service projected by the pre-construction roadway and transportation plan.
- b. The actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the mixed-use development at all points studied in the pre-construction roadway and transportation plan shall be measured by a traffic engineering firm retained by the City and paid for by the applicant or successor.
- c. Mitigations will be required if actual total number of vehicle trips to and from the mixed-use development measured per paragraph b. above, summed over the points of access exceeds the weekday evening adjusted volume projected per Sec. 7.3.5.A.5.c6.B.5. by more than 10 percent as a result of traffic generated by the mixed-use development. Within 6 months of notification, the owner of the mixed-use development site shall begin mitigation measures (reflecting applicable roadway design standards at the time and pending receipt of all necessary state and local approvals), as described in the roadway and transportation plan submitted by the applicant and listed in the mixed-use development special permit in order to reduce the trip generation to 110 percent or less of the adjusted volume. Such reduction is to be achieved within 12 months after mitigation begins. The Commissioner of Public Works and Director of Planning and Development must approve any mitigation efforts prior to implementation.

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

- A. **Mixed Use 1 and 2 District.** [Reserved]
- B. **Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. **Mixed Use 4 District.** The purposes of the Mixed Use 4 district are to:
 1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
 2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
 3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
 4. Expand the diversity of housing options available in the City.
 5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-6, 10/01/12)

4.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3, apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/TOD	MU4
Lot Area Per Unit	10,000 sf	10,000 sf	1,200 850 sf	1,000 sf

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.
3. **Stories.** A special permit is required based on stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	NA	P
3 stories	P	SP	NA	--
3 stories, mixed use residential	NA	NA	NA	P
4 stories	SP	SP	NA	SP
5 stories, mixed use residential	NA	NA	NA	SP

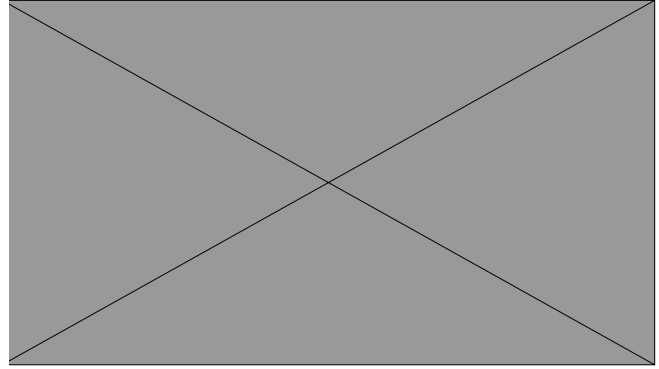
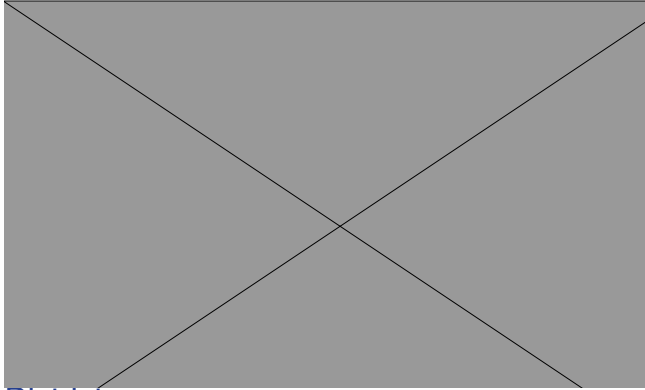
P = Allowed by Right

SP = Special Permit by City Council Required

NA=Not Applicable, -- Not Allowed

(Ord. No S-260, 08/03/87; Ord. No. A-73, 04/04/16; Ord. No. A-99, 01/17/17)

4.2.3. All Building Types in Mixed Use



Districts

Mixed Use Districts	MU1	MU2	MU3	MU4
Lot Dimensions				
(A) Lot Area (min)				
2 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
3 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
4 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
5 stories	--	--	9 ac	10,000 sf
(B) Lot Coverage (max)	--	--	--	--
(C) Beneficial Open Space	--	--	n/a by right; +510% by special permit	See Sec. 4.2.5
Building Setbacks				
(D) Front (min)				
1 story	15'	15'	See Sec. 4.2.4	See Sec. 4.2.5
2 or more stories	total ht of bldg	total ht of bldg		
Parking Setback	20'	15'		
(E) Side (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	7.5'		
Parking setback	5'	5'		
(F) Rear (min)				
Abutting residential or Public Use district	Greater of 1/2 bldg ht or 20'	Greater of 1/2 bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	0'		
Parking setback	5'	5'		
Building and Structure Height				
(G) Height (max)				
2 stories	36'	24'	36' by right;	24'
3 stories	36'	36'	+35260' by special permit	36'
4 stories	48'	48'		48'
5 stories	--	--		60'
(G) Stories (max) see also Sec. 4.2.2	3	4	420	8
Floor Area Ratio				
Floor Area Ratio (max)				
2 stories	1.50	1.00	up to 36' = 1.0	1.00
3 stories	1.50	1.50	up to +35260' = 2.427	1.50
4 stories	2.00	2.00		2.00
5 stories	--	--		2.50

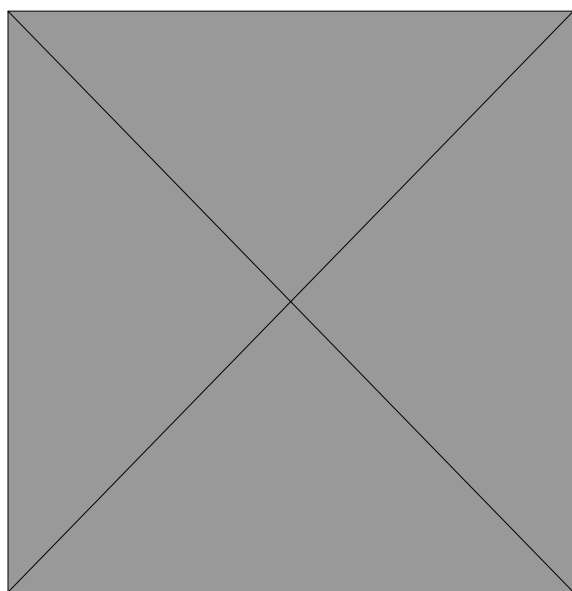
* Average setback is described in [Sec. 1.5.3](#)

-- Not Allowed

4.2.4. Additional Standards in MU 3/TOD

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/TOD, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

A. Setbacks. Any structure or building must be set back a distance ~~equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses of 15 feet (excluding balconies) on Grove Street. All other setbacks to lot lines shall be 0.~~ To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.



B. Beneficial Open Space. At least 50 percent of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public.

C. Exclusion of Public Structures from Zoning Requirements. Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:

1. The quantity of beneficial open space required;
2. Minimum lot area; or
3. Floor area ratio.

D. Impacts of Takings by or Conveyances to a Public Entity. The provisions of Sec. 7.8.4 shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. Establishment of a Development Parcel. The area developed under a special permit must be organized into a development parcel as defined in Article 8. The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 acres in size and does not create or expand any nonconformities.

F. Intensity of development.

1. The development must have at least one use from each of the three categories (A, B, and C) plus a community use space.
 - a. Category A: Office (including research and development, business incubator, medical office, and other similar uses);
 - b. Category B: Retail sales, personal services, restaurants, banking, health club, ~~place of entertainment and assembly~~place of amusement, indoor or outdoor, theater, lodging, hotel, motel, animal services; and
 - c. Category C: Multi-family, live/work space, single room occupancy, single person occupancy, assisted living, nursing home.
2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit for a mixed-use development.
3. The calculation of floor area ratio does not include any enclosed parking area or parking structure in the MU3/TOD District.

G. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in each category, so long as the total gross floor area of all uses, excluding accessory parking and non-accessory parking, does not exceed ~~580,000~~1,520,000 square feet:

1. Category A shall not exceed ~~225,000~~650,000 square feet (excluding offices incidental to residential, retail or community uses); ~~the majority of which must be contained within one structure~~;
2. Category B shall not exceed ~~20,000~~200,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
3. Category C shall not exceed ~~335,000~~750,000 square feet not to exceed ~~290~~675 dwelling units.

H. **Organization of Owners.** Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use

development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

(Ord. No. Z-108, 04/17/12)

4.2.5. Additional Standards in MU4

A. Design Standards for the Mixed Use 4 District.

Notwithstanding any provisions of this Article to the contrary, buildings and structures in the Mixed Use 4 district shall conform to the following standards:

1. **Height.** Buildings in the Mixed Use 4 district shall be a minimum of 2 stories and shall conform to the limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 4 stories and 48 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
2. **Mixed-Use Residential Incentive.** Buildings that meet the definition of mixed-use residential buildings shall conform to the specific limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 5 stories and 60 feet of building height by finding that the proposed

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Residential Uses												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.1
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.2
Residential use, above ground floor	L/SP	L/SP	L/SP	L/SP	--	SP	L/SP	P	P	--	--	Sec. 6.2.4
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	Sec. 6.2.4
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	Sec. 6.2.10
Live/work space	P	P	P	P	P	P	P	P	P	--	--	Sec. 6.2.11
Lodging House, above ground floor	SP	SP	SP	SP	--	SP	SP	SP	SP	--	--	Sec. 7
Civic/Institutional Uses												
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	Sec. 6.3.2
Community use space	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.4
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	Sec. 6.3.5
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	Sec. 6.3.6
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	Sec. 6.3.7
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	Sec. 6.3.8
Public use	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.10
Rail/bus station	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.11
Religious institution	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.12
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	--	SP	--	--	--	--	Sec. 6.3.13
School or other educational purposes, non-profit	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.14
Theatre, hall	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.3.15
Commercial Uses												
Animal service, excluding overnight boarding	--	--	--	--	--	SP	SP	SP	SP	--	--	Sec. 6.4.1
ATM, standalone	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	Sec. 6.4.2

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

(Ord. No. B-1, 02/20/18; Ord. No. B-27, 04/01/19)

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank, up to 5,000 square feet	P	P	P	P	--	SP	P	SP	P	--	P	Sec. 6.4.4
Bank, over 5,000 square feet	P	P	P	P	--	SP	SP	SP	P	--	P	Sec. 6.4.4
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	Sec. 6.4.5
Business incubator	P	P	P	P	--	P	P	P	--	P	p	Sec. 6.4.6
Business services	--	--	--	--	--	SP	P	--	--	--	--	Sec. 6.4.7
Car-sharing service, car rental, bike rental, electric car-charging station	P	P	P	P	P	P	P	P	P	--	P	Sec. 6.4.8
Car wash	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.4.9
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	Sec. 6.4.11
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	Sec. 6.4.12
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	Sec. 6.4.13
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.14
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	Sec. 6.4.15
Health club, above or below ground floor	P	P	--	P	--	P	P	P	SP	P	P	Sec. 6.4.16
Health club, ground floor	P	P	--	P	--	SP	SP	SP	SP	P	P	Sec. 6.4.16
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	Sec. 6.4.17
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	Sec. 6.4.18
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	Sec. 6.4.18
Kennel	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.4.19
Office	P	P	P	P	P	P	P	L	L/SP	P	P	Sec. 6.4.20
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	Sec. 6.4.21
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	Sec. 6.4.22
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	Sec. 6.4.23
Parking facility, accessory, single level	P	P	P	P	--	P	P	<u>P</u>	P	P	P/SP	Sec. 6.4.24
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	SP	SP	<u>SP</u>	SP	SP	SP	Sec. 6.4.24
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	SP	--	<u>P</u>	P	SP	SP	Sec. 6.4.24
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	SP	--	<u>SP</u>	SP	SP	SP	Sec. 6.4.24
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.25
Personal service, over 5,000 square feet	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.4.25
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	Sec. 6.4.26

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed